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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,408	10/11/2000	LI YANG	791_119	6047

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EXAMINER

CANTELMO, GREGG

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 02/26/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/686,408

Applicant(s)

YANG ET AL.

Examiner

Gregg Cantelmo

Art Unit

1745

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 11.
10. ☒ Other: See Continuation Sheet

Continuation of 10. Other: The proposed amendment materially alters the scope of the claims in that the concentration would no longer be limited to the non-aqueous electrolyte but instead to the battery itself. This raises new issues that would require further consideration and/or search.

With respect to the substitute specification filed August 8, 2002 and in light of Applicants comments in the after final amendment received February 3, 2003, the substitute specification has been entered.

With respect to the declaration: The declaration has been considered, but is not persuasive for the following reasons:

a. The purpose of the declaration states that the evidenced experiment therein is proof only that the prior art of JP '631 can (emphasis added) contain water and HF in a total concentration of more than 10,000 ppm in the battery. Thus there is not enough evidence that JP '631 only contains water and HF in a total concentration of more than 10,000 ppm in the battery.

b. This statement of purpose in the declaration is directed to the concentration applied to the battery and not drawn to the non-aqueous electrolyte as recited in the instant claims.

c. The evidence provided in the declaration shows that the total concentration of water and HF in the battery was 12,000 ppm after 24 hours (emphasis added). The claims do not recite a time period after which the concentration is added and determined to be above or below a threshold limit nor does the declaration provide evidence that the total concentration of water and HF in the electrolyte solution is always above 10,000. Such a statement would appear to contradict the explicit teachings of the prior art reference which teaches of a total concentration of water and HF in the electrolytic solution to be 150 ppm or less..

Given that the total concentration of water and HF of JP '631 is a combined maximum concentration of 150 ppm or less, the prior art of record is still held to anticipate the instantly claimed invention (as set forth in the previous office action and incorporated herein).


Patrick Ryan
Supervisory Patent Examiner
Technology Center 1700